



# **COMMONWEALTH of VIRGINIA**

## **DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **VALLEY REGIONAL OFFICE**

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Secretary of Natural Resources

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### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO ZION CROSSROADS RECYCLING PARK, LLC FOR VAN DER LINDE RECYCLING Registration No. 81621**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Zion Crossroads Recycling Park, LLC, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit and applicable regulations.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
4. "Facility" means the van der Linde Recycling facility located at 73 Hunters Branch Road, Troy, Fluvanna County, Virginia, that recycles solid waste.

5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
7. "Permit" means the New Source Review permit which was issued under the Virginia Air Pollution Control Law and the Regulations to ZCRP on March 17, 2016.
8. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 chapters 10 through 80.
9. "Va. Code" means the Code of Virginia (1950), as amended.
10. "VAC" means the Virginia Administrative Code.
11. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.
12. "ZCRP" or "van der Linde Recycling" means Zion Crossroads Recycling Park, LLC, a limited liability company authorized to do business in Virginia, and its members, affiliates, partners, and subsidiaries. ZCRP is a "person" within the meaning of Va. Code § 10.1-1300.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Zion Crossroads Recycling Park, LLC, d.b.a. van der Linde Recycling, is subject to a DEQ Air program permit to modify and operate a solid waste recycling center, dated March 17, 2016.

On March 22, 2016, DEQ staff received notifications from the facility regarding the installation and operation of equipment at the facility. The March 22, 2016 submittal included a cover letter dated July 25, 2015 stating that a Lindner Uracco 75 DK wood grinder (EU-09) and a Hammel Model VB 750 DK Nr. 110/632 municipal solid waste shredder (EU-10) were installed on July 20, 2015; and a letter dated August 20, 2015 stating that the startup date for the Linder Uracco 75 DK wood grinder (EU-09) and the Hammel Model VB 750 DK Nr. 110/632 municipal solid waste shredder (EU-10) was August 15, 2015.

2. The permit for the installation of these units was issued on March 17, 2016.
3. 9 VAC 5-80-1120.A. states: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article without first obtaining from the board a permit under the provisions of this article."



4. 9 VAC 5-80-1210.E states: "Any owner who constructs or operates a source subject to this section not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a source subject to this section who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section."
5. On March 24, 2016, the Department issued Notice of Violation (NOV) No. AVRO000349-001 to van der Linde Recycling for the violations described in paragraphs 2 through 5 above.
6. On April 25, 2016, the facility submitted a written response to the NOV. They stated that the engines of the EU-09 Lindner Wood grinder Uracco 75 DK and the EU-10 Hammel MSW shredder VB750 DK were started briefly on September 18, 2015 for testing purposes but no material was processed during the test. They also stated that they did not realize that mobile equipment could not be brought on-site prior to obtaining a permit.
7. Based on the March 22, 2016 notifications, the Board concludes that ZCRP has violated 9 VAC 5-80-1120.A described in paragraph C(2) through C(5) above.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders ZCRP, and ZCRP agrees to:

Pay a civil charge of **\$6,000.00** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

ZCRP shall include its Federal Employer Identification Number, 55-0915461, with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of ZCRP for good cause shown by ZCRP, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.



2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, ZCRP admits the jurisdictional allegations, and agrees not to contest, but neither admits nor denies, the findings of fact and conclusions of law in this Order.
4. ZCRP consents to venue in the Circuit Court of the City of Richmond, Virginia for any civil action taken to enforce the terms of this Order.
5. ZCRP declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by ZCRP to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. ZCRP shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. ZCRP shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. ZCRP shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which ZCRP intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and ZCRP. Nevertheless, ZCRP agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. the Director or his designee terminates the Order after ZCRP has completed all of the requirements of the Order;
  - b. ZCRP petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to ZCRP.

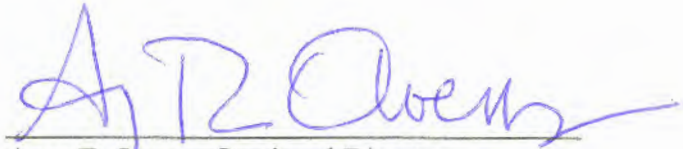
Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve ZCRP from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by ZCRP and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of ZCRP certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind ZCRP to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of ZCRP.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.



15. By its signature below, ZCRP voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 15<sup>th</sup> day of July, 2016



Amy T. Owens, Regional Director  
Department of Environmental Quality

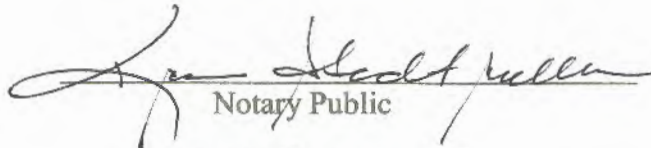
Zion Crossroads Recycling Park, LLC voluntarily agrees to the issuance of this Order.

Date: 7/6/16 By: Peter van der Linde, President  
Peter van der Linde Title  
Zion Crossroads Recycling Park, LLC

Commonwealth of Virginia

City/County of Shenandoah

The foregoing document was signed and acknowledged before me this 6<sup>th</sup> day of  
July, 2016, by Peter van der Linde who is  
President of Zion Crossroads Recycling Park, LLC, on behalf of the  
company.

  
Notary Public

7383428

Registration No.

My commission expires: 2/28/2019

Notary seal:

